

Remarks

1) Whether "Disabling of protection of an identity software" as required by claim12 as amended, a new matter ?

a) Please insert "to someone else" after "copying the EI program" in the specification, P.2, last paragraph, line 3.

It is a missing phrase and after the insertion, it is readable on that paragraph, lines 2-3 that "copying the ES program ... to someone else" is really equivalent to "copying the EI program to someone else" and no new matter is being introduced into the disclosure of the present invention.

b) Please insert "to someone else" after "products" in the specification, P.2, third paragraph, line 6.

Insertion of this missing phrase introduces no new matter into the disclosure of the present invention because it is already readable on the specification, P.2, last paragraph, as amended in item 1a) herein above.

c) Please insert "rightful" in the specification, P.2, third paragraph, line 4, before "user" and lines 5, 6, before "user's".

d) Please replace "provided" with "be used by an unauthorised user to provide" in the specification, P.2, third paragraph, line 5.

The phrase is readable from the third paragraph as amended in item 1b) & 1c) and the last paragraph as amended in item 1a). Specifically, it is readable from the third paragraph as amended that a rightful user would not copy the EI program to someone else, for fearing that the someone else who being an unauthorised user, can use the EI program to use the account of the rightful user, thereby, the ES program is protected from being unauthorised copied by its rightful user to someone else. Thus, the EI program as described is not being protected from use by an unauthorised user.

e) Please delete P.3, last paragraph in the specification and also delete the first word "When" in P.4, second paragraph and insert the following at the beginning of P.4, second paragraph :

"The entry of user password is necessary to prevent someone to access the central computer and use the account of the rightful user without his authorisation. And thereafter, when"

This amendment of specification make clear that "the enabling of use of the EI program/unencrypted identity/encrypted identity by a user password is a precondition for use of the ES program or the running program".

It introduces no new matter into the disclosure of the present invention because , as mentioned in item 1d) hercin above, it is already readable from the third paragraph as amended in item 1b) & 1c) and the last paragraph as amended in item 1a) herein above that, the EI program is not being protected from use by an unauthorised user so as to protect the ES program from being unauthorised copied by its rightful user to someone else. Therefore it should be very clear that, the protection of the EI as described in P.4, second paragraph, against unauthorised use, has to be disabled in order that the ES or the running program can be used.

After this amendment of specification, the new limitation "Disabling of protection of an identity software" as required by claim12, is readable on the specification P.3, last 3 paragraph to P.4, second paragraph.

2) Whether "using the presence of an identity software, as one of the preconditions, rather than the only precondition, for authorising use of protected software" as required by claim 1 as amended, a new issue ?

Before the amendment, claims 12, 17, in particular, claim 17, claims "use the presence of an identity software(claim 12) or a functional equivalent thereof(claim 17), as a precondition for authorising use of protected software", and as both claims do not indicate that this is the only precondition, therefore they can be met by any software which use that precondition as one of the preconditions for authorising use of protected software and they should be interpreted as claiming that precondition as one of the preconditions for authorising use of protected software. Thus, this is not a new

issue.

3) In the Final Office Action, P.2, item 1c), claims 1-7 and 9-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ananda(645) .

In support of the rejections, the Examiner states, in the Final Office Action, P.2, item 3a, that my arguments(response to First Office Action) filed on 18 Aug., 97 are not deemed to be persuasive for the reason that "the rightful user make copies of ... software available" is probably the most prevalent form of unauthorised software distribution. The Examiner also states, in the Final Office Action, P.2, item 3a, that my arguments(response to First Office Action) filed on 18 Aug., 97 are not deemed to be persuasive for the reason that claim 12 specifies purchase and rental of software program is (as disclosed by Ananda) is merely a time-limited purchase.

The rejections are respectfully traversed. The independent claims 1, 12 are being amended to define the invention more precisely.

The invention as defined by independent claims 1, 12, 17, before this amendment and as readable on my response to the first office action, is directed to an authorising software which use the presence of an identity software or a functional equivalent thereof, with no protection against unauthorised use, as a precondition for authorising use of protected software.

The rightful or authorised user will of course be discouraged by the present invention, from providing a usable copy of his/her authorising software to any one else. In this way, use of the protected software by an unauthorised user is being prevented. And the present invention is neither disclosed nor suggested by Ananda.

Ananda, as read on all the claims thereof, describes a method of securely renting software, and as read on claim 1, merely teaches of permitting continuous execution of application software in a first computer if authorisation is obtained from a second computer continuously, and execution will be terminated if otherwise. Claim 11 claims a similar method and in particular, specifies a header program for, when being

executed, transmitting, from the first computer, a password verification request comprising a system time, to the second computer, and the second computer will return a dynamic password in response, and the header program terminates the rental application program if the dynamic password received does not match another dynamic password it generated previously. And, as read on col. 23, lines 44-53, "The invention enables ... monitor the time period when a particular application software is executed by a user record the pertinent information regarding the execution of application software for billing and accounting purpose".

There is no software or means in Ananda's claimed invention which can meet the requirement of identity software of claims 1, 12 or the means for providing identity information of claim 17 or identity information of claims 1, 12, 17, before or after this amendment. Ananda's claims merely mention of a password verification request comprising a system time. Thus, Ananda does not meet claims 1, 12, 17, before or after this amendment.

However, to ensure the present invention as defined by claims 1, 12, 17 will not be easily met by other well known prior art or the various modifications, changes, adaptations possible for those in the art on Ananda's claimed invention, so as to avert an unnecessary search to be done by the Examiner, the Examiner is respectfully to enter this amendment.

Regarding the allowability of independent claim 1 as amended, it is not possible for one with ordinary skill in the art to include a software for authenticating an identity software, as required by claim 1 as amended, in a prior art system for authorising use of software and in which a prior art authorising software and identity software meeting the requirements of "authorising software and identity software" of claim 1 as amended is included. Because if there exists such a prior art identity software in the prior art system, it should be for providing identity information to be authenticated by a remote computer in order to receive authorisation therefrom, and the authentication of the identity information is already a proof of the authenticity of the identity software itself

and a software for authenticating thereof in the system, is not necessary. And as mentioned herein above, the present invention is directed to an authorising software which use the presence of an identity software or a functional equivalent thereof, with no protection against unauthorised use, as a precondition for authorising use of protected software, this requirement of claim 1 as amended ensures the identity software be "the real one".

Regarding the allowability of independent claim 12 as amended, it is not possible for one with ordinary skill in the art to use "disabling of protection of an identity software which being not used in authorisation of use of protected software, by a password or the like", which being a cumbersome procedure, as a precondition for authorisation of use of protected software, and this is being required by claim 12 as amended. This requirement of claim 12 as amended ensures the identity software is not being protected.

Regarding the allowability of independent claim 17 as amended, it is not possible for one with ordinary skill in the art to use an encryption algorithm used by a prior art identity program which can be caused to be executed by a password or the like, for providing identity information to use a user account or the like, in a prior art authorising software for generating encrypted commands to authorise use of protected software or the like. For the reason that, the identity software is to be used by the user himself unlimitedly and without restriction, and if the same algorithm is to be used for authorising use of protected software, then the identity software will become another authorising software which can be used for authorising use of the protected software unlimitedly and with no restriction. And, it is respectfully submitted that it is not possible for one with ordinary skill in the art to protect a commercial software by another software plus a user password or the like and without any hardware, which being equally duplicable and transferable.

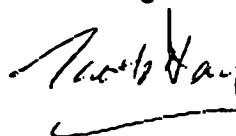
And, it is even more impossible for one with ordinary skill in the art to include

information representative of an encryption algorithm used by a prior art identity program, in a prior art authorising software, and be accessible or usable but not to be used for authorisation of use of protected software, as required by claim 17.

Date: Dec., 10, 97

Respectfully submitted,

Ho Keung, Tse.

A handwritten signature in black ink, appearing to read 'Ho Keung, Tse.', with a horizontal line underneath.

*** ACTIVITY REPORT ***

RECEPTION OK

TX/RX NO. 8225

CONNECTION TEL

CONNECTION ID

START TIME 12/10 06:46

USAGE TIME 07'38

PAGES 10

RESULT OK